

someone else's house, a house you did not even own, you probably would not get invited to spend the weekend there because you were betting the house would catch on fire.

At best, we call that a cynical bet. Unfortunately, it happens a lot in our financial system. It is called a naked CDS. It is a CDS in which the entity buying protection does not even own the underlying credit.

During the crisis, traders bought protection hoping that borrowers would fail to pay back their loans—borrowers such as the government of Greece or the State of California, for that matter.

Betting on failure, of course, is dangerous, as we know. That is why Senator DORGAN has offered an important amendment, in his mind, to define the problem. In addition to requiring all CDSs to be cleared, it outright bans naked CDSs and synthetic asset-backed securities.

I have described the serious steps we have taken in our underlying bill to reduce the dangers in the CDS market. Senator DORGAN's amendment goes a step further and, in my view, too far at this particular juncture. Let me explain why.

I don't know, nor can anyone say with absolute clarity, what are the implications and the unintended consequences if we have a total ban on the naked synthetic credit default swaps.

Here is my concern. You can have, for instance, people hedging against where they have uninsured interests. In fact Greece—a country that may fall, an entity in which there is no particular financial interest but there is a concern that economy may not be there—they lack insurable interests, necessarily, but it is not illegitimate to want to protect yourself against an event such as the collapse of another country that could cause financial disruptions.

My concern about the Dorgan amendment, and had we been dealing with it in another means—that is, we had offered the Dorgan amendment—I intended to offer a side-by-side amendment that would have allowed this to go forward but asking the security risk management operation we set up in this bill to make valuation to determine how this could work.

I happen to believe in certain instances what Senator DORGAN offers makes sense. My concern is I cannot tell you with certainty what the unintended consequences are. I cannot say with absolute certainty what Senator DORGAN is proposing actually will be doing what it claims or if there are broader implications to it.

This is a very important matter. I do not minimize it at all. But as chairman of this committee responsible for advising colleagues and drafting legislation, I need to talk with some certainty about what I think the implications will be of certain proposals. I cannot tell you what the outcome of this will be. There may be serious con-

sequences negatively to our economy if we adopt this amendment as is.

For those reasons this evening, I feel compelled to disagree with this amendment. The only alternative I have to disagreeing to it is to vote to table because of the procedural position in which we find ourselves. I would have preferred a side-by-side which would have given some room for the Dorgan amendment to move forward with further consideration as to how it is applied.

Lacking that ability, do we accept or reject the amendment? Because of the concerns I have about accepting the amendment without knowing what the consequences may be, I have to recommend the amendment be defeated. Without necessary protections for commercial end users, financial stability, and governments and corporations that depend on credit in which to operate and any alternative, we risk shutting down a \$25 trillion credit default swap market—a \$25 trillion credit default swap market. We need thorough examination and study before taking this kind of dramatic action. That much is at risk if this amendment were to be adopted.

I urge my colleagues, given the circumstances, to support the tabling motion.

I see my colleague from North Dakota. I withhold making the tabling motion and give him a chance to respond.

Mr. DORGAN. Mr. President, I appreciate the courtesy of my colleague from Connecticut. My colleague talks about unintended consequences. We already know the real consequences of what are called naked credit default swaps. That is all we are talking about with this amendment.

My colleague started out by talking about normal hedging by a candy manufacturer with respect to the price of sugar. That is not what this is about at all, and I am not prepared to lose a debate in which I am not involved. That is not what this is about. This is about naked credit default swaps.

My colleague says there is \$25 trillion of notional value of credit default swaps. I have cited two sources—the best two of which I am aware—that says 80 percent of them—think of this—as much as 80 percent of them have no insurable interest. They are just flatout naked, just gambling, betting, not investing.

This is not a case of unintended consequences. We know the real consequences. We have already lived it and experienced it and we ought to understand that we cannot accept it any longer.

This bill allows us to decide what kind of financial system we want going forward. Do we want to leave here saying we want a financial system in which the big shots on Wall Street decide they want to trade \$25 trillion worth of credit default swaps, 90 percent of them in the five biggest banks?

If that is what they want to do and it is betting rather than investing, God

bless them; let them do it. Who are we to tell them? Who are we to tell them? We lost about \$15 trillion, that is who we are.

My question is: Are we going to see if we can sober up this system to say this is not the kind of financial system with which we grew up? Only in the last decade and a half did we decide to securitize everything and create these new exotic instruments—CDOs, naked credit default swaps and the like. That has happened recently. It was not because my colleagues from Connecticut and Alabama came to the floor of the Senate and said: Let's decide to create a whole series of new financial instruments in this country that are hard to pronounce and understand. They can all make a lot of money in fees, pay big bonuses, and it will work out just fine. That is not how it happened. It happened because we had a bunch of brain-dead regulators, among other things, who said: Go play. And they all went to play and made a lot of money, and this economy nearly panicked.

So this amendment, I would say to the Senator from Connecticut, is very simple. It would ban the use of naked credit default swaps in which no one has any insurable interest.

By the way, with respect to unintended consequences, under this modified amendment I have offered, the appropriate Federal regulators, including the chair of the Financial Stability Oversight Board, may phase in the effective date for up to 18 months if they determine the phase-in of the prohibitions and limitations in the amendment is necessary to avoid undue market disruptions.

Having said that, I respect the view of my colleague. I profoundly disagree with it. I hope very much that my colleagues will decide not to table this amendment and to stand on the side of people who say: Let's really make a change here. We understand what happened. It was awful for this country. Let's make sure it doesn't happen again. The only way we will do that is to effect the kind of change that exists in this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, again very briefly, obviously much of what we have included under our bill, of course, is designed specifically to avoid the kinds of losses that occurred. There are provisions in the bill dealing with those kinds of safeguards—the clearinghouses, the regulators, the mandatory exchanges, and the like. That is in the bill.

Again, I have to say to my colleagues here that there are potentially serious consequences to this. There are no protections for commercial end users if this amendment is adopted. We run the risk of financial instability in governments and corporations that depend upon credit to operate—\$25 trillion.

Again, I would have offered a side-by-side which would have taken some of the good aspects of the Dorgan amendment, but my concern is about exactly